

## Department of Justice

## § 104.62

make additional payments in light of such adjustments.

(2) *Subsequent payments.* Subject to paragraph (c)(3) of this section, in any case in which the amount of a claim is ratably reduced pursuant to paragraph (c)(1) of this section, on or after October 3, 2016, but in no event later than October 3, 2017, the Special Master shall pay to the claimant the amount that is equal to the difference between:

(i) The amount that the claimant would have been paid under the presumed award; and

(ii) The amount the claimant was paid during the period from October 3, 2011, to October 3, 2016.

(3) In the event that the total amount of all claims under paragraph (c)(2) of this section exceeds the amount available under law, the Special Master shall ratably reduce the amount of compensation due claimants in a manner to ensure, to the extent possible, that all claimants who are determined to be entitled to an additional payment receive their pro-rated share of the available funds.

(4) At the time at which subsequent payments are made, the Special Master may review offsets from the World Trade Center Health Program that were included in the award determination and adjust such subsequent payments to reflect the Program's current status.

(5) During the five years that the Fund is accepting claims, the Special Master shall report periodically on the total amount of all claims under paragraph (c)(2) of this section.

### § 104.52 Distribution of award to decedent's beneficiaries.

The Personal Representative shall distribute the award in a manner consistent with the law of the decedent's domicile or any applicable rulings made by a court of competent jurisdiction. The Personal Representative shall, before payment is authorized, provide to the Special Master a plan for distribution of any award received from the Fund. Notwithstanding any other provision of these regulations or any other provision of state law, in the event that the Special Master concludes that the Personal Representative's plan for distribution does not ap-

propriately compensate the victim's spouse, children, or other relatives, the Special Master may direct the Personal Representative to distribute all or part of the award to such spouse, children, or other relatives.

## Subpart F—Limitations

### § 104.61 Limitation on civil actions.

(a) *General.* Section 405(c)(3)(C) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, or for damages arising from or related to debris removal, except that this limitation does not apply to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. The Special Master shall take appropriate steps to inform potential claimants of section 405(c)(3)(C) of the Act.

(b) *Pending actions.* Claimants who have filed a civil action or who are a party to such an action as described in paragraph (a) of this section may not file a claim with the Special Master unless they withdraw from such action not later than January 2, 2012.

(c) *Settled actions.* In the case of an individual who settled a civil action described in Section 405(c)(3)(C) of the Act, such individual may not submit a claim under this title unless such action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to January 2, 2011.

### § 104.62 Time limit on filing claims.

(a) *In general.* A claim may be filed by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on October 3, 2011, and ending on October 3, 2016, as follows:

(1) In the case that the individual knew (or reasonably should have known) before October 3, 2011, that the individual suffered a physical harm at

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a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and is eligible to file a claim under this Part as of October 3, 2011, the individual may file a claim not later than October 3, 2013.

(2) In the case that the individual first knew (or reasonably should have known) on or after October 3, 2011, that the individual suffered such a physical harm or in the case that the individual became eligible to file a claim under this Part on or after that date, the individual may file a claim not later than the last day of the 2-year period beginning on either the date that the individual first knew (or should have known) that the individual both suffered from such harm or the date the individual became eligible to file a claim under this title, whichever is later, but in no event beyond October 3, 2016.

(b) *Determination by Special Master.* The Special Master or the Special Master's designee should determine the timeliness of all claims under paragraph (a) of this section.

## § 104.63 Subrogation.

Compensation under this Fund does not constitute the recovery of tort damages against a third party nor the settlement of a third party action, and the United States shall be subrogated to all potential claims against third party tortfeasors of any victim receiving compensation from the Fund. For that reason, no person or entity having paid other benefits or compensation to or on behalf of a victim shall have any right of recovery, whether through subrogation or otherwise, against the compensation paid by the Fund.

## Subpart G—Measures To Protect the Integrity of the Compensation Program

### § 104.71 Procedures to prevent and detect fraud.

(a) *Review of claims.* For the purpose of detecting and preventing the payment of fraudulent claims and for the purpose of assuring accurate and appropriate payments to eligible claimants, the Special Master shall implement procedures to:

(1) Verify, authenticate, and audit claims;

(2) Analyze claim submissions to detect inconsistencies, irregularities, duplication, and multiple claimants; and

(3) Ensure the quality control of claims review procedures.

(b) *Quality control.* The Special Master shall institute periodic quality control audits designed to evaluate the accuracy of submissions and the accuracy of payments, subject to the oversight of the Inspector General of the Department of Justice.

(c) *False or fraudulent claims.* The Special Master shall refer all evidence of false or fraudulent claims to appropriate law enforcement authorities.

## Subpart H—Attorney Fees

### § 104.81 Limitation on Attorney Fees.

(a) *In general*—(1) *In general.* Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title, including expenses routinely incurred in the course of providing legal services, more than 10 percent of an award paid under this title on such claim. Expenses incurred in connection with the claim of an individual in this title other than those that are routinely incurred in the course of providing legal services may be charged to a claimant only if they have been approved by the Special Master.

(2) *Certification.* In the case of any claim in connection with which servicers covered by this section were rendered, the representative shall certify his or her compliance with this section and shall provide such information as the Special Master requires to ensure such compliance.

(b) *Limitation*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) of the Act, the representative who charged such legal fee may not charge any amount for compensation for services rendered in connection with a claim filed by or on behalf of that individual under this title.